

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

File No. 88852-001

v

Blue Cross Blue Shield of Michigan
Respondent

/

Issued and entered
This 12th day of May 2008
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On March 31, 2008, XXXXX, authorized representative of XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on April 7, 2008.

The Petitioner is enrolled for health coverage through the Michigan Education Special Services Association (MESSA) that is underwritten by Blue Cross Blue Shield of Michigan (BCBSM). The Commissioner notified BCBSM of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on April 16, 2008.

The issue in this external review can be decided by a contractual analysis. The contract here is the MESSA Choices II Group Insurance for School Employees benefit book (the benefit book). The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter

does not require a medical opinion from an independent review organization.

II FACTUAL BACKGROUND

The Petitioner had teeth extracted on October 10, 2007, by XXXXX. The amount charged for this care was \$1,462.00. BCBSM denied payment for this treatment.

The Petitioner appealed BCBSM's decision to deny coverage. BCBSM held a managerial-level conference on February 18, 2008, and issued a final adverse determination dated February 28, 2008.

III ISSUE

Is BCBSM required to cover the Petitioner's October 10, 2007 teeth extractions?

IV ANALYSIS

Petitioner's Argument

In 1994 the Petitioner was treated for a chronic digestive condition that caused him to throw up 10 to 12 times a day. He was treated at XXXXX for this condition. Sometime later the Petitioner's dentist noticed dental cavities and erosion of the Petitioner's teeth, conditions not typical for a teenager. His doctors indicated that persons suffering from chronic vomiting often have severe dental problems.

The Petitioner's benefit book says that dental surgery is payable for multiple extractions or removal of unerupted teeth performed in a hospital when the patient has an existing concurrent hazardous medical condition. The Petitioner says BCBSM does not deny that he has a concurrent medical condition and when he had teeth removed at the XXXXX in 2006, BCBSM paid for the hospital care and anesthesia. The Petitioner describes XXXXX as a "surgical facility" and believes that the extractions should be covered.

The Petitioner indicated that he had exhausted his dental benefits for 2007 with a dental carrier other than BCBSM but believes that under the terms of his medical coverage, the dental

surgery on October 10, 2007, is covered and BCBSM is required to pay for it.

BCBSM's Argument

BCBSM says three sections of the benefit book describe the dental benefits available and coverage for dental care is limited to certain very clear and specific criteria. In Section 7 of the benefit book, "Coverage for Physician and other Professional Provider Services," it explains (page 36):

Dental surgery is payable **only** for:

- multiple extractions or removal of unerupted teeth, alveoloplasty or gingivectomy performed in a hospital when the patient has an existing concurrent hazardous medical condition
- surgery on the jaw joint
- arthrocentesis performed for the reversible or irreversible treatment of jaw joint disorder.

In Section 8, "Other Covered Health Care Services," it says (page 44):

This section describes coverage for other health care services in addition to your facility and physician services.

Dental Services

Dental treatment by a licensed dentist or dental surgeon required because of an accidental injury to sound natural teeth sustained while covered by this plan and only if coverage has been continuous since the date of the accidental injury. Charges by a dental surgeon for the removal of cysts and tumors and jaw, and the extraction of impacted teeth are covered.

Finally, under "Exclusions and Limitations" in Section 10 (page 48), it says that the following is not covered:

dental care (except as previously specified) including repairs of supporting structures for partial or complete dentures, dental implants, extractions, extraction repairs, bite splints, braces and appliances and other dental work or treatment.

It is BCBSM's position that the Petitioner's October 10, 2007, dental treatment is not covered under any of the sections referred to above. The documentation indicates that the Petitioner's dental decay and extractions were the result of a medical condition, not an accidental injury.

In addition, BCBSM says it is clear the dental services did not take place in a hospital as required by the benefit book language. The services were performed at XXXXX and BCBSM says it called this facility and confirmed that it is a dental office, not a hospital of any kind. Therefore, BCBSM argues that its denial of the dental services in question was appropriate.

Commissioner's Review

The Commissioner is sympathetic to the Petitioner's situation -- as a result of a medical condition his severely damaged teeth had to be extracted. However, the Petitioner's MESSA coverage is primarily for medical and surgical care, not dental treatment. The benefit book explicitly excludes coverage for extractions except in very limited situations, and none of those apply here: there was no information to establish that the need for the extraction arose from an accidental injury and the services were not provided in a hospital.

The Petitioner argued that his extractions in 2006 were paid in part under this same provision. The provision provides coverage when an individual has a medical condition that makes it necessary to have dental treatment performed in a hospital setting. The 2006 extractions were done in a hospital and therefore met the criteria for coverage. But the Petitioner's October 10, 2007, extractions were done in a dentist office, not a hospital -- his existing concurrent hazardous medical condition did not require at that time that dental treatment be performed in a hospital.

The Commissioner concludes that the care the Petitioner received on October 10, 2007, does not meet the limited criteria for dental care set forth in the benefit book and is not a covered benefit.

V ORDER

BCBSM's final adverse determination of February 28, 2008, is upheld. BCBSM is not

required to cover the Petitioner's October 10, 2007 dental care.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

Ken Ross
Commissioner